

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

LATCHMIE TOOLASPRASHAD,

Plaintiff,

v.

11-CV-0922Sc

IMMIGRATION & CUSTOMS ENFORCEMENT,

Defendant.

NOTICE OF MOTION AND MOTION TO DISMISS

PLEASE TAKE NOTICE that the defendant, United States Immigration and Customs Enforcement, by its attorney, William J. Hochul, Jr., United States Attorney for the Western District of New York, Gail Y. Mitchell, Assistant United States Attorney, of Counsel, will move this Court, on such date as the Court may set, for an Order dismissing this case and for summary judgment pursuant to Rules 12(b)(1), (b)(6) and (d) of the Federal Rules of Civil Procedure as follows:

- (1) dismissing the complaint of plaintiff Latchmie Toolasprashad for lack of subject matter jurisdiction;
- (2) dismissing the complaint of plaintiff Latchmie Toolasprashad for failure to state a claim upon which relief can be granted;
- (3) in the alternative, for summary judgment in favor of the defendant; and
- (4) for such other and further relief as to the Court seems just and proper.

For this motion defendant relies upon the Declaration of Ryan Law executed on July 10, 2012, with its attachments; the Declaration of Jill A. Eggleston, executed on July 3, 2012, with its attachments, both of which declarations are being filed separately herewith. Defendant also relies upon its supporting Memorandum of Law, which is also being filed separately.

DATED: Buffalo, New York, July 17, 2012.

Respectfully submitted,

WILLIAM J. HOCHUL, JR.
United States Attorney

BY: /s/GAIL Y. MITCHELL
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CERTIFICATE OF SERVICE

I hereby certify that on July 17, 2012, I electronically filed the foregoing **NOTICE OF MOTION AND MOTION TO DISMISS** with the Clerk of the District Court using its CM/ECF system, and I mailed the foregoing, by the United States Postal Service, to the following non-CM/ECF participant:

LATCHMIE TOOLASPRAHAD
#35648936
Buffalo Federal Detention Facility
4250 Federal Drive
Batavia, New York 14020

/s/MARQUITTA R. WHITEHEAD
Legal Assistant